

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**  
Wilkes-Barre Division

Maria Victoria Diri,

*Debtor.*

Chapter 7  
Case No. 5:21-bk-00329-MJC

**Motion to Reopen Case**

Debtor Maria Victoria Diri, by her attorney, moves this Court as follows:

1. The Debtor filed this case voluntarily under chapter 7 on February 19, 2021.  
ECF No. 1.

2. The Debtor scheduled a debt owed to the U.S. Department of Education in the amount of \$34,784.00 on Schedule E/F. She also listed the Department of Education's address as 3130 Fairview Park Drive, Suite 800, Chesapeake, VA 23323.

3. Because the Debtor had significant non-exempt assets, the chapter 7 trustee began the process of liquidating those assets after the meeting of creditors. As part of that process, the Clerk set a deadline to file proofs of claim.

4. The Bankruptcy Noticing Center sent a copy of the claim deadline notice to the Department of Education at the Chesapeake address. ECF No. 16.

5. The Department of Education did not file a claim by the deadline.

6. During the period allowed by Fed. R. Bankr. P. 3004, the trustee filed a proof of claim on behalf of the Department of Education in the amount of \$33,784.00, which the Clerk docketed as Claim No. 7.

7. The Chesapeake address listed for the Department of Education on the Debtor's schedules was also listed on Claim No. 7 as the address for payments and notices.

8. A Google search by the Debtor's current counsel yielded nothing to suggest that the Department of Education ever had an office at the Chesapeake address.

9. The trustee did not attach any supporting documents to Claim No. 7.

10. Upon information and belief, the trustee had no personal knowledge of the validity of the debt owed to the Department of Education and filed Claim No. 7 based only on the Debtor's schedules.

11. Because this case was not filed under chapters 9 or 11, the Debtor's schedules alone are not evidence of the validity or amount of any debt. *See Fed. R. Bankr. P. 3003.*

12. Filing a proof of claim without personal knowledge of the validity of the subject debt violates Fed. R. Bankr. P. 9011.

13. Despite these bright red flags, the Debtor's now-discharged attorney did not object to Claim No. 7.

14. Because Claim No. 7 was not objected to, it was allowed.

15. The trustee sent payment to the Department of Education in the amount of \$28,381.48, but those funds were unclaimed. As a result, the trustee deposited \$28,381.48 into the court registry on September 7, 2022. ECF No. 60.

16. The Debtor recently moved to withdraw the funds from the registry. ECF No. 67. The Court denied the motion because the funds are currently property of the Department of Education. *See* ECF No. 72.

17. The Debtor requests that the Court reopen this case so that the Debtor can seek relief that will solve this problem.

18. Once this case is reopened, the Debtor intends to object to Claim No. 7 on the basis stated above. In doing so, the Debtor will serve the objection on the Department of Education at its actual address for service of process. In addition, the objection will be served on the Attorney General and the U.S. Attorney for the Middle District of Pennsylvania as required by the Bankruptcy Code.

19. The Debtor sees several possible resolutions to this matter through this strategy. If the Department of Education responds to the Debtor's claim and defends Claim No. 7, conventional wisdom says that they will also move the Court for the release of the funds to which they are entitled. Problem solved.

20. But if the Department of Education does not defend Claim No. 7, the Debtor believes that the Court must sustain the objection on the basis set forth above. If the Court tosses the claim, the Debtor would then have a right to withdraw the funds from the Court registry. That would also solve the problem.

For those reasons, the Court must grant relief in the form of order attached, and further in the Debtor's favor if necessary and proper under the law.

Date: May 3, 2024

CIBIK LAW, P.C.  
*Attorney for Debtor*

By: 

---

Mike Assad (#330937)  
1500 Walnut Street, Suite 900  
Philadelphia, PA 19102  
215-735-1060  
help@cibiklaw.com